

REMARKS

This amendment is being filed in response to the Office action mailed November 21, 2005. Reexamination and reconsideration of the application as amended and in view of the amendments and remarks herein is respectfully requested.

Claim Amendments

Applicants thank the Examiner for recognizing the allowability of claims 26, 35 and 36 and claims 37-39 if the Examiner's rejection under 35 U.S.C. §112, first paragraph is overcome. Claims 26 and 35 have been rewritten in independent form. Claims 9-10, 13-15, 17 and 22 have been amended to depend from claim 26, and claim 34 has been amended to depend from claim 35. Claims 1-8, 21 and 27-33 have been cancelled. In view of the amendments and remarks herein, all claims are believed to be in a condition for allowance.

Amendments to the Drawings

The Examiner has objected to the drawings under 37 CFR 1.83(a) as not showing the actuator driven element being responsive to the plunger. Applicant proposes to replace original FIGS. 3 and 4 with amended FIGS. 3 and 4 provided on the attached Replacement Sheet of drawings. On the attached replacement sheet, FIGS. 3 and 4 have been amended only to include the box labeled 301 (actuator driven element) and the lead line extending from box 301 to the plunger 318.

Support for this amendment may be found, for example, at page 8, lines 14-18, page 11, lines 21-22 ("...the driven element may or may not be in direct contact with the plunger.") and page 12, lines 16-18. No new matter is believed entered by this amendment. In view of the present amendment, Applicants respectfully request that the Examiner's objection to the drawings under 37 CFR 1.83(a) be withdrawn upon consideration.

Amendments to the Specification

The specification has been amended for consistency with the amendment to the drawings, i.e. to include reference numeral 301. No new matter is believed entered by this amendment.

Rejections Under 35 U.S.C. §112, first paragraph

Claims 1-39 were rejected under 35 U.S.C. §112, first paragraph, on the basis that the specification fails to reasonably convey that the applicant had possession of the claimed invention, particularly in regard to the drive assembly driving the actuator driven element. Applicants respectfully traverse this rejection.

Applicants note that the first paragraph of the “Summary of the Invention” at page 2, lines 17-22 includes language that is nearly identical to the language of the claims the examiner points to as lacking a written description in the specification. Moreover, the specification, for example, at page 8, lines 14-18, page 11, lines 21-22 (“...the driven element may or may not be in direct contact with the plunger.”) and page 12, lines 16-18, includes full support for the manner in which the drive assembly or plunger drives the driven element. Of course, all that is required in regard to the written description requirement of 35 U.S.C. §112, first paragraph is that the “applicant convey with reasonable clarity to those skilled in the art that, as of the filing date sought, he or she was in possession of the invention, and that the invention, in that context, is whatever is now claimed.” MPEP 2163. Clearly, one of ordinary skill in the art finding nearly identical language to the claims in the specification, and the language referenced above, would conclude that the Applicants were in possession of the claimed invention.

Also, claims 1-39 are originally filed claims in the application. Applicants note that with regard to originally filed claims “[t] here is a strong presumption that an adequate written description of the claimed invention is present when the application is filed. *In re Wertheim*, 541 F.2d 257, 263, 191 USPQ 90, 97 (CCPA 1976) (“we are of the opinion that the PTO has the initial burden of presenting evidence or reasons why persons skilled in the art would not recognize in the disclosure a description of the invention defined by the claims”).” MPEP 2163. Applicants respectfully submit that, in view of the fact that claims 1-39 are originally filed

claims, and in view of the nearly identical language to the claims in the specification, and the language referenced above, the Examiner has not met the initial burden necessary to overcome the “strong presumption” of lack of written description in the specification.

Applicants respectfully request that the Examiner’s rejection of claims 1-39 under 35 U.S.C. § 112, first paragraph, be withdrawn upon reconsideration.

Double Patenting and 35 U.S.C. §§102,103

In view of the amendments of claims 9-10, 13-15, 17, 22 and 34 and the cancellation of claims 1-8, 21 and 27-33, the Examiner’s rejections set forth in paragraphs 8-16 of the Official Action are moot. Applicants respectfully request that these rejections be withdrawn upon reconsideration.

In light of the foregoing remarks, it is believed that all of the presently pending claims are in a condition for allowance. Allowance of the application is respectfully requested. In the event the Examiner deems personal contact desirable in disposition of this application, the Examiner is respectfully requested to call the undersigned attorney at (603) 668-6560.

No fees are believed to be due. In the event there are any fee deficiencies, please charge them (or credit any overpayment) to our Deposit Account No. 50-2121.

Respectfully submitted,

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